

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SPECS USA CORP,

No. C 10-04250 DMR

Plaintiffs,

**ORDER GRANTING DEFENDANTS'
ADMINISTRATIVE MOTION TO
CORRECT CLERICAL ERROR AND
AWARDING ADDITIONAL
SANCTIONS**

v.

SPECS SURFACE NANO,

Defendants.

On September 18, 2012, the court granted Defendants Specs USA Corp. and Rickmer Kose's motion for sanctions for discovery violations by Plaintiffs SPECS GmbH and SPECS Inc. [Docket Nos. 83 (Sanctions Mot.), 96 (Order Granting Mot. for Sanctions.)] In its September 18 order, the court did not set forth the amount of the sanctions award pending the receipt of additional briefing. On October 30, 2012, following receipt of the briefing, the court issued an order awarding Defendants a total of \$39,185.44 as sanctions in the form of attorneys' fees and costs incurred by Defendants in May and July 2012. [Docket No. 121 (Order Awarding Sanctions).] Although Defendants requested an award of fees and costs incurred in June 2012 in connection with the discovery violations, they did not submit billing records for June 2012. As a result, the court was unable to determine whether the hours claimed for June 2012 were compensable, and therefore did not award Defendants any fees incurred in that month. (Order Awarding Sanctions 3.) The court noted that "[a]lthough Exhibit F to [Defendants' counsel's] declaration [in support of the motion for

1 sanctions] purport[ed] to be billing records through June 30, 2012, it [was] actually billing records
2 through May 31, 2012. The court [was] unable to locate billing records for the month of June 2012
3 in the papers submitted by Defendants.” (Order Awarding Sanctions 3 n.2; *see* Decl. of Macaulay in
4 Supp. of Defs.’ Mot. for Rule 37 Sanctions, Ex. F (Docket 83-1), July 24, 2012.)

5 Now before the court is Defendants’ Administrative Motion to Correct E-Filing and Clarify
6 Order Awarding Sanctions, to which Plaintiffs have submitted an opposition. [Docket Nos. 134,
7 143.] In Defendants’ administrative motion, they seek permission to correct the erroneously e-filed
8 Exhibit F to Defendants’ counsel’s declaration in support of the motion for sanctions, and have
9 submitted the missing June 2012 billing records. (Defs.’ Mot. 1; Decl. of Macaulay in Supp. of
10 Defs.’ Administrative Mot. to Correct E-Filing, Ex. K, Nov. 2, 2012.) According to Defendants,
11 when filing their motion for sanctions and supporting documents, they inadvertently uploaded one
12 invoice twice and failed to attach the billing records for June 2012 as Exhibit F. Contrary to
13 Plaintiffs’ assertions, Defendants do not make any new arguments in support of their sanctions
14 motion, nor do they seek reconsideration of the court’s October 30, 2012 order. Instead, they seek
15 permission to correct a clerical error and ask the court to consider the omitted billing records in
16 connection with their sanctions motion. Defendants’ motion is granted. The court deems the new
17 exhibit containing the billing records for June 2012 as substituted for the erroneously-filed original
18 Exhibit F and will consider the new exhibit as part of Defendants’ original motion for sanctions.

19 Upon review of the now-complete record of Defendants’ motion for sanctions, the court
20 finds that the hours billed for work performed in June 2012 by attorneys Brendan Macaulay and Chi
21 Soo Kim and project manager Genesis Alejandro were related to the parties’ certification of their
22 document production, Defendants’ second motion to compel, work regarding Plaintiffs’ ongoing
23 document production deficiencies, and Defendants’ sanctions motion. The court finds that none of
24 the hours were unnecessary, duplicative, or excessive, and finds that the hourly rates sought by
25 Defendants’ counsel and support staff – \$395 for Mr. Macaulay, \$370 for Ms. Kim, and \$190 for
26 Mr. Alejandro – are well within the range of reasonable hourly rates for attorneys and support staff
27 of comparable skill, experience and reputation litigating similar cases in the San Francisco Bay
28 Area. Accordingly, the court awards Defendants \$23,341.50 in sanctions representing attorneys’

1 fees and costs incurred in June 2012. This sum is in addition to the \$39,185.44 the court previously
2 awarded Defendants on October 30, 2012, and shall be paid by Plaintiffs and/or their counsel to
3 Defendants within 30 days of this order.

4
5 IT IS SO ORDERED.

6
7 Dated: December 6, 2012

